

Notice of Allowability

Application No.

10/817,591

Examiner

Bao Qun Li

Applicant(s)

SALLBERG ET AL.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed on Feb. 07, 2007.
2. ☒ The allowed claim(s) is/are 6,38-41,51,53-56 and 82-105.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date Feb. 20, 2007.
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Rule 1.126

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).
2. Misnumbered claims of 103 to 108 have been renumbered as 100-105.

Response to Amendment

3. The amendment filed on 02/07/2007 has been acknowledged. Claims 36, 38-41, 51, 53-56 have been amended. New claims 88-105 have been added. Claims 1-35, 37, 42-50, 52, 57-81, have been canceled. Claims 36, 38-41, 51, 53-56, 82-105 are pending and considered before the examiner.

Claim Rejections - 35 USC § 112 1st paragraph

4. Text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

Applicant's amendment and arguments filed on Feb. 07, 2007, with respect to the 112 1st paragraph enablement rejection have been fully considered and are persuasive. The rejection of claims 36, 38-41, 51, 53-56, 82-87 has been withdrawn.

Double Patenting

5. Text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.
6. Applicants have timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) has been acknowledged and accepted. It effectively overcome double patenting rejection of claims 36-40 over the conflict claims in the copending Application No. 11,411,493.

Conclusion:

7. Claims 36, 38-41, 51, 53-56, 82-105 are allowed.

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REASONS FOR ALLOWANCE

8. The following is an examiner's statement of reasons for allowance: Applicants insistent throughout the prosecution that the claimed invention is directed to an unexpected result. Because applicants find that co-administration of an effective amount of hepatitis B or hepatitis C antigen together with an effective amount ribavirin as a single doses within one composition produces an enhanced humoral and cellular immune response against the specific hepatitis virus antigen. This is different from the result observed by administering ribavirin and separately from the hepatitis viral antigen, which produces an immunological modulatory effect toward Th1 type of immune response, which is the function of ribavirin generally recognized in the state of art.
9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao Qun Li whose telephone number is 571-272-0904. The examiner can normally be reached on 6:30 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bao Qun Li
Feb. 28, 2006

BAOQUN LI, MD
PATENT EXAMINER
Bao Qun Li

Bruce Campell

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